

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

INTEROCEAN COAL SALES, LDC,)
Plaintiff,)
v.) Case No.: 11-CV-0940-NRB
EVONIK TRADING, GmbH, an alien)
corporation, and EVONIK STEAG)
GmbH, an alien corporation.)

DECLARATION OF JOHN MCCLELLAN

I, John McClellan, hereby declare pursuant to 28 U.S.C. §1746(2):

1. I am over eighteen years of age, am of sound mind and am competent to make this declaration. I have personal knowledge of the facts set forth in this declaration based on my employment with Drummond Coal Sales, Inc. and diligent investigation also for a reasonable time prior.

2. I am employed as Vice President of Sales Operations and Technical Services by Drummond Coal Sales, Inc. ("DCSI") and have held that position since August 15, 2004. Previously I was employed in various positions within the Coal Operations group for 18 years and a total of over 31 years in the coal mining industry.

3. The phrase "Net Calorific Value" or "NCV" represents a measurement of the heating value in a given coal; Europeans often express this value in "thousand calories per kilogram" or "Kcal/kg." "Kcal/kg" is a metric system value; Americans use the phrase

"BTU/lb." (British Thermal Units per pound). The calorific value of coal affects its combustion and value for electric power plants.

4. Describing coal qualities on an "as received" basis (often abbreviated as "a/r", "arb", or "AR") means the values calculated in the coal "as received" by the testing laboratory; "dry basis" means the values calculated after removal of all moisture in the sample. The percentage value for "dry basis" sulphur will always be higher than the "as received" percentage. Net in "Net Kcal/kg" is a reduction of the Gross heating value and calculated to represent the "usable" heating value available in the boiler.

5. Reference to a "cape size" vessel means a ship that is too large to pass through the Panama Canal and must instead travel around the Cape of Good Hope or Cape Horn to transit from Atlanta to the Pacific oceans; in 2008-2010, these vessels typically held 145,000-165,000 metric tons of coal.

6. Drummond's issuance of a bill of lading ("B/L") to a vessel captain that designates an identified port or destination for the cargo does not mean the cargo will actually arrive at the designated port; the holder of an authenticated B/L has the authority to re-sell the cargo in transit and to divert the vessel to a different port without any notice to Drummond.

7. The holder of a B/L properly issued and authenticated by Drummond for a coal cargo has complete discretion to re-sell all or any portion of the cargo without any notice to Drummond.

8. Drummond, Ltd. operates the Pribbenow and El Descanso mines in the La Loma region of Colombia. The Pribbenow began production in 1995, and El Descanso began production in 2008.

9. During calendar years 2008, 2009 and 2010, Drummond loaded 118 cargoes at Puerto Drummond for delivery to European ports; each of these cargoes had TS/AR below 0.6%; 40 of these cargoes were shipped to ports in Belgium and the Netherlands and two went to ports in Germany.

10. Given a timely request, Interocean could have attempted to blend coal with different qualities to possibly meet Walsum 10's specific requirements.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the date set forth below.

Dated: 20 July 2012

John McClellan

John R. McClellan